

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROGER WHEELER,
Plaintiff,

v.

STATE OF WASHINGTON,
Defendant.

Case No. C05-5764FDB
ORDER TO SHOW CAUSE

This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the court on plaintiff's filing of an application to proceed *in forma pauperis* and a petition for writ of *habeas corpus* under 28 U.S.C. § 2254. To file a petition and initiate legal proceedings, petitioner must pay a filing fee of \$5.00 or file a proper application to proceed *in forma pauperis*.

On November 23, 2005, the clerk received plaintiff's complaint and application to proceed *in forma pauperis*. (Dkt. #1). Local Rule CR 3(b) provides in relevant part:

At the time application is made under 28 U.S.C. § 1915 or other applicable acts of Congress, for leave to commence any civil action or to file any petition or motion without being required to prepay fees and costs or give security for them, each petitioner, movant or plaintiff shall:

- (1) Complete the in forma pauperis affidavit approved for use in this district; and
- (2) File a written consent that the recovery, if any, in the action, to such amount as the court may direct, shall be paid to the clerk who may pay therefrom all unpaid fees and costs taxed against the plaintiff, and to his attorney the amount which the court allows or approves as compensation for the attorney's services.

1 On November 25, 2005, the clerk sent a letter to petitioner, directing him to provide a copy of his prison trust
2 account statement and the written consent required by Local Rule CR 3(b)(2) by December 27, 2005. (Dkt. #2).
3 While it appears petitioner has provided a copy of his prison trust account statement, to date he has not
4 provided a copy of the required written consent.

5 Accordingly, this court orders the following:

6 (1) Plaintiff shall seek to cure this deficiency by filing **no later than February 12, 2006**, a copy
7 of the written consent required by Local Rule CR3(b)(2).

8 **Failure to cure this deficiency by the above date shall be deemed a failure to properly**
9 **prosecute this matter and the court will recommend dismissal of this matter.**

10 (2) The clerk is directed to send a copy of this Order to plaintiff.

11 DATED this 12th day of January, 2006.

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15 Karen L. Strombom
16 United States Magistrate Judge
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